

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 03/20/2025

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UNITED STATES OF AMERICA,

-v-

CRISTIAN MARINO-CASTRO,

Defendant.
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20-cr-157 (LJL)

MEMORANDUM AND
ORDER

LEWIS J. LIMAN, United States District Judge:

Defendant Cristian Marino Castro moves, pursuant to 18 U.S.C. § 3582(c)(2), for the Court to correct what he alleges to be an error in the calculation of his sentencing guidelines range. Dkt. No. 118. On November 29, 2022, Mr. Marino-Castro pleaded guilty pursuant to a plea agreement to a superseding information that charged him in Count 1 with Hobbs Act conspiracy, in violation of 18 U.S.C. § 1951, and in Count 2 with possession of marijuana with the intent to distribute it, in violation of 21 U.S.C. §§ 841(a)(1), and 841(b)(1)(D). Dkt. No. 80. On June 7, 2023, the Court sentenced Mr. Marino-Castro to a term of imprisonment of 252 months on Count 1, to be served concurrently with a term of imprisonment of sixty months on Count 2 for a total of 252 months' imprisonment. Dkt. No. 94; Dkt. No. 101 at 35. The aggregate sentence that the Court imposed was below the stipulated Guidelines range of 292 to 365 months set forth in the plea agreement. *See* Dkt. No. 88 ¶ 7. Mr. Marino-Castro waived his right to appeal or file a Section 2255 motion with respect to any sentence within that Guidelines range. The Court's sentence was also substantially below the 292-month term of imprisonment recommended by the Probation Department. *Id.* at 22.

Among other arguments made by Mr. Marino-Castro, he asserts that the Court's sentence on Count 1 ignored the fact that the Hobbs Act carries a statutory 20-year maximum sentence. Dkt. No. 118 at 15.

Section 3582(c)(2) appears to be the wrong vehicle for Mr. Marino-Castro's motion. That section provides an avenue for relief to defendants who have been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission. Nonetheless, it appears that the Court may have erred in the form in which it imposed sentence. The 252-month term on Count 1 exceeds the statutory maximum permitted for Hobbs Act robbery. *See* 18 U.S.C. § 1951. Notably, the same apparent error appears in the Presentence Report, which recommends a sentence in excess of 240 months on Count 1. Dkt. No. 88 at 22. No party identified the issue for the Court at the time of sentencing. Dkt. No. 101 at 37–38. Thus, although it was the Court's intent that Mr. Marino-Castro serve a term of 252 months' imprisonment, if his sentence on Count 2 is to run concurrent with the sentence on Count 1 (as the Court stated), it appears that the proper sentence for Mr. Marino-Castro may be 240 months.

The Government is directed to respond to Mr. Marino-Castro's motion by April 21, 2025, including by indicating whether the Court erred and, if so, whether there is an avenue of relief for Mr. Marino-Castro. Mr. Marino-Castro shall have until May 21, 2025, to reply.

SO ORDERED.

Dated: March 20, 2025
New York, New York



LEWIS J. LIMAN
United States District Judge